

Franchise Tax Board**ANALYSIS OF AMENDED BILL**

Author: Alquist Analyst: Janet Jennings Bill Number: SB 208
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: March 31, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Order Of Restitution By County Probation Department For Collections

SUMMARY

This bill would authorize county probation departments to refer specific debts to the Franchise Tax Board (FTB) for collection.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The March 31, 2011, amendments added provisions that would allow the county probation departments to refer debts to the FTB for collection.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author, the purpose of this bill is to provide restitution for identify theft victims for the costs associated with ongoing credit monitoring and repair.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

ANALYSISSTATE LAW

Under current state law, fees, penalties, forfeitures, restitution orders, fines, or certain amounts imposed by a superior or municipal court or governmental entity in California and delinquent for 90 days or more can be referred by the court or government entity to the FTB for collection.

Restitution orders may be referred by a government entity under the following conditions:

- The government entity has the authority to collect on behalf of the state or victim.
- The government entity is responsible for the distribution of the amounts collected from the restitutions orders.

Board Position:

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- The government entity ensures that in making the referral and distribution that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.
- The government entity ensures compliance with the laws relating to reimbursement of the State Restitution Fund.

After issuing a preliminary notice to the debtor, the FTB is authorized to collect the referred restitution orders in the same manner as authorized for collection of a delinquent personal income tax liability. The FTB's costs attributable to this collection program are reimbursed through the amount the FTB collects for the program. The department has followed legislative intent language under the court-ordered debt (COD) collection program that limits the FTB reimbursement to 15 percent of the amounts collected. In general, the county or state fund originally owed the debt receives the net collection proceeds after reduction by the amount of the FTB's departmental collection costs.

Current state law authorizes the FTB to use administrative collection tools to collect delinquent tax and non-tax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

THIS BILL

This bill would authorize county probation departments to refer restitution orders owed by persons under the jurisdiction of that county probation department to the FTB for collection.

IMPLEMENTATION CONSIDERATIONS

Department staff has made the following assumptions absent specific language in the bill:

- A contractual agreement would be drawn up specifying the requirements consistent with existing collection protocols for court ordered debt.
- The FTB assumes the county probation departments are equipped to handle the customer service aspects of collection on the restitution orders within their jurisdiction and this bill would not require the FTB to provide customer service to the victims, only the referring entity.

Based on the above assumptions, the FTB does not anticipate any implementation concerns. However, if any of the assumptions fail to become part of the guidelines for the referral of county probation debts, department staff expects that implementation issues could arise.

LEGISLATIVE HISTORY

AB 2928 (Spitzer, Stats. 2008, Ch. 752) authorized the California Department of Corrections and Rehabilitation (CDCR) to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to the FTB for collection and allow the person who is owed the restitution to decline the collection assistance.

AB 367 (De Leon, Stats. 2007, Ch. 132) established a task force to evaluate the imposition of criminal COD and distribution of revenue from the collection of those debts, and lowered the minimum balance requirement for referral of COD for collection to the FTB.

SB 246 (Escutia, Stats. 2004, Ch. 380) extended indefinitely the provisions authorizing a county to refer delinquent debts to FTB for collection, thereby requiring the FTB and the courts to expand the collection of court-ordered debts to all 58 California Counties.

PROGRAM BACKGROUND

The FTB currently collects restitution orders referred from courts of 43 counties and maintains an inventory of approximately 1.1 million cases. Non-tax debt collection is accomplished primarily through the use of wage garnishments and bank levies. In August 2004, legislation was enacted (SB 246, Stats. 2004, Ch. 380) making the FTB's COD program permanent and requiring the FTB to expand participation to all 58 counties and superior courts.

FISCAL IMPACT

This bill would not impact the department's costs because the cost to the FTB to collect these restitution orders would be deducted from any amounts collected prior to being distributed.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

SUPPORT/OPPOSITION

Support:

Attorney General Kamala Harris
Association for Los Angeles Deputy Sheriffs
California Chamber of Commerce
California Retailers Association
CoreLogic
First American Corporation
LA County Probation Officers Union
Personal Insurance Federation of California
Reed Elsevier Inc.
Riverside Sheriffs' Association
TransUnion

Opposition:

None on file

ARGUMENTS

Pro: Using the capabilities of the FTB to collect the restitution orders owed to victims will improve the collection of these orders and put more money in the victim's hand.

Con: Because the perpetrators of the crime are either in jail or recently paroled from jail, the collection potential for this class of debts is expected to be minimal.

LEGISLATIVE STAFF CONTACT

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